

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Woodridge Holdings, LLC,
Petitioner-Appellant,

v.

City of Cedar Rapids Board of Review,
Respondent-Appellee.

ORDER

Docket Nos. 10-101-0347 to 0364

On March 25, 2011, the above-captioned appeals came on for a consolidated hearing before the Iowa Property Assessment Appeal Board. The appeals were conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Woodridge Holdings, LLC, (Woodridge) requested a hearing and submitted evidence in support of its petitions. Kerry Peyton, acting under a power of attorney for the owner of Woodridge, Darrell High, represented the appellant at hearing. The Board of Review designated Deputy City Assessor Tom Lee as its representative and submitted documentary evidence in support of its decisions. A digital record of the proceeding was made. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Woodridge, owner of properties located at 5016 1st Avenue NW; 5012 1st Avenue NW; and 110 Harbet Avenue NW, Cedar Rapids, Linn County, Iowa, appeals from the City of Cedar Rapids Board of Review decisions reassessing the subject properties. The properties, known collectively as Cedarville West, consist of eighteen residential condominium units and common areas. The value of the land and common areas are apportioned to each condominium according to the fractional ownership recorded in the horizontal property regime. The three, three-story, walk-up style buildings are located on a 0.83 acre site on the west side of Cedar Rapids. Each of the three buildings has six,

two-bedroom and one-bath units with minor differences in square footage and building value. The buildings were built in 1975, have 18% physical depreciation, and are a grade 5-00 quality construction. They were apartments until converted to individual condominiums on January 1, 2009. All units have common ownership, are managed as a whole, and are not offered for sale individually. The breakdown of unit parcel numbers, sizes and assessed values by building address is as follows:

5016 1st Avenue NW						
Docket	Parcel	Unit #	Square Feet	Land Value	Dwelling Value	Total Value
10-101-0347	13264-07019-01012	5016-1	715	\$ 3,800	\$ 40,525	\$ 44,325
10-101-0348	13264-07019-01013	5016-2	708	\$ 3,800	\$ 39,861	\$ 43,661
10-101-0349	13264-07019-01014	5016-3	749	\$ 3,800	\$ 41,189	\$ 44,989
10-101-0350	13264-07019-01015	5016-4	741	\$ 3,800	\$ 41,189	\$ 44,989
10-101-0351	13264-07019-01016	5016-5	749	\$ 3,800	\$ 41,189	\$ 44,989
10-101-0352	13264-07019-01017	5016-6	741	\$ 3,800	\$ 41,189	\$ 44,989
5012 1st Avenue NW						
Docket	Parcel	Unit #	Square Feet	Land Value	Dwelling Value	Total Value
10-101-0353	13264-07019-01006	5012-7	708	\$ 3,800	\$ 39,861	\$ 43,661
10-101-0354	13264-07019-01007	5012-8	715	\$ 3,800	\$ 40,525	\$ 44,325
10-101-0355	13264-07019-01008	5012-9	741	\$ 3,800	\$ 41,189	\$ 44,989
10-101-0356	13264-07019-01009	5012-10	749	\$ 3,800	\$ 41,189	\$ 44,989
10-101-0357	13264-07019-01010	5012-11	741	\$ 3,800	\$ 41,189	\$ 44,989
10-101-0358	13264-07019-01011	5012-12	749	\$ 3,800	\$ 41,189	\$ 44,989
110 Harbet Avenue NW						
Docket	Parcel	Unit #	Square Feet	Land Value	Dwelling Value	Total Value
10-101-0359	13264-07019-01000	110-1	754	\$ 3,800	\$ 41,189	\$ 44,989
10-101-0360	13264-07019-01001	110-2	754	\$ 3,800	\$ 41,189	\$ 44,989
10-101-0361	13264-07019-01002	110-3	774	\$ 3,800	\$ 41,853	\$ 45,653
10-101-0362	13264-07019-01003	110-4	774	\$ 3,800	\$ 41,853	\$ 45,653
10-101-0363	13264-07019-01004	110-5	774	\$ 3,800	\$ 41,853	\$ 45,653
10-101-0364	13264-07019-01005	110-6	774	\$ 3,800	\$ 41,853	\$ 45,653

The parcels were classified as residential on the initial assessment of January 1, 2010. We note there was a reassessment of all parcels resulting in an increase in the assessed values of each parcel from January 1, 2009, to January 1, 2010, and Woodridge was not limited to claiming the ground of downward change in value. Woodridge protested to the Board of Review on the ground that the assessments were not equitable as compared with assessments of other like property in the taxing

district under Iowa Code section 441.37(1)(a). After consideration of all the data presented, the Board of Review denied the petitions.

Woodridge then appealed to this Board asserting the same ground. It claimed that each parcel should have an assessed value of \$23,000.

Kerry Peyton, on behalf of Woodridge, testified that the combination of high crime in the area, declining economic conditions, and the Section 8 housing tenants contributed to giving the complex a “bad name.” She reported although the properties had 100% occupancy at the end of 2009, by February 2010, there was a 20% vacancy rate. According to Peyton, there were 234 police calls in the area between March and May 2010. The increase in vacancies was partly due to an effort to tighten tenant eligibility rules and to rid the property of bad tenants, which was encouraged by the police.

Peyton testified the Woodridge assessments are 44% higher than other comparable properties. She reported the assessed values of the subject properties increased 38% when they were converted to condominiums in 2009 and increased an additional 5.3% in 2010. Peyton stated the comparable properties’ assessed values have not been increased. She indicated that individual condominium units do not sell well in the area and Woodridge plans to continue renting the units.

An appraisal completed by Shane L. Hartzler of Rally Appraisal, LLC, Cedar Rapids, valued all properties in the complex collectively at \$405,000 in “as is” condition as of January 12, 2010, and at \$570,000 “as completed” and stabilized as of June 1, 2010. The appraisal was prepared as part of a refinancing by Woodridge to remodel exterior and interior common areas of the subject properties. The appraisal’s coversheet indicates the appraiser was valuing the “leased fee interest in the subject property.”

Hartzler observed the interior common areas are worn and need to be replaced. He reported a new roof and exterior siding had been completed in recent years. The additional site work, repaving, and interior renovations of approximately \$95,000 were intended to reduce vacancy and generate \$100

to \$175 higher monthly rents per unit. Hartzler indicated the subject units were rented at below market rents and the project has a negative cash flow. He noted the improvements should attract new tenants and allow Woodridge to demand slightly higher rents. Hartzler reported there were approximately 1000 apartment units within one mile of the Woodridge properties and the area vacancy rate was 10%.

Hartzler identified seven sales between 2008 and 2009 with unadjusted sale prices per unit ranging from \$18,250 to \$45,781. Adjusted sales prices ranged from \$29,881 to \$31,344 per unit. Like the subject, Hartzler considered sales prices of comparable properties as collective units and then divided the sales price by the number of units to arrive at an adjusted sale price per unit. We note some of the comparable units had different bedroom and bathroom counts, some had garages, and some varied in size from the Woodridge units. Hartzler valued the subject complex at \$400,000 “as is” and \$560,000 “as completed,” using the sales approach. He divided the collective total by the number of units for a unit allocation of \$22,000 “as is” and \$31,000 “as completed.”

Hartzler developed a value opinion of \$410,000 “as is” and \$575,000 “as completed” using the income approach for the units as a whole. He used the current rent of \$465 monthly and 12% vacancy rate for the “as is” analysis and projected \$495 monthly rent¹ and 7.5% vacancy rate for the “as completed” analysis. Hartzler used an overall capitalization rate of 8.5%, excluding the effective tax rate, and deducted the real estate taxes as expenses. The income approach is less reliable because it used current rents and Hartzler admitted they were rented below market. In addition, the income approach considered one value for the entire complex with no consideration of the individual unit values. In the end, Hartzler’s income approach was not persuasive evidence of the eighteen units’ individual fair market values and does not support a claim of inequity under Iowa Code section 441.37(1)(a).

¹ In Hartzler’s opinion, the projected rent could be increased \$40 to \$50 per month if the unit interiors were updated in addition to the updated common areas based on market area rents for units with upgraded interiors.

Hartzler did not develop the cost approach because in his opinion the significant physical depreciation of the thirty-year old properties made the method unreliable.

The indicated range of value was \$400,000 to \$410,000 using both the sales comparison and the income approach for the subject property “as is.” The indicated range of value was \$560,000 to \$575,000 using both the sales comparison and the income approach for the subject property “as completed.” Hartzler reconciled two approaches used with a final value opinion of \$405,000 “as is” and \$570,000 “as completed” and stabilized. He then allocated the value to the individual condominium units, \$22,500 per unit “as is” and \$31,667 per unit “as completed.”

Deputy City Assessor Tom Lee testified on behalf of the Board of Review. Lee reported that the parcels were collectively assessed at \$475,000 as commercial apartment buildings in 2008. The properties were reclassified and reassessed in 2009 when converted to residential condominiums. Additionally in 2010, the combination of an internal equalization process and the use of a new state cost manual further increased the assessments. Lee testified that Exhibit B, a list of condominium properties similar in condition and location to the Woodridge condos, indicates an assessed value per square foot of \$59 to \$62 and a median of \$60 per square foot. The subject properties are assessed at approximately \$60 per square foot. However, Lee did not know whether the comparables were Section 8 properties and he was unable to say whether Woodridge properties’ Section 8 housing had an impact on its values.

Lee also believes the properties were converted to condominiums to benefit from the residential rollback. He is critical of the way in which Woodridge divided the appraisal value by eighteen to calculate the proposed assessed values of the individual units. In his opinion, the holding in *Dinkla v. Guthrie County Bd. Of Review*, (2006 WL 2422170) (Iowa App.), requires each unit be individually assessed.

In reviewing the appraisal, we note the appraiser was valuing the leased fee interest in the entire complex, both “as is” and “as completed.” Both the subject and the sales comparables were appraised collectively and then broken down into individual values based on the number of units in the complex. This method essentially values the property as if an investor would be purchasing the whole complex and could result in an artificially low per-unit value. Individual units in a horizontal property regime are considered separate parcels. Iowa Code § 499B.10. Iowa law prohibits a collective assessment of property committed to a horizontal property regime. § 499B.11(1). As a separate parcel, the property should be valued as if the owner has the full “bundle of rights” and may conceivably sell or transfer individual units. § 499B.10; *Dinkla*, (2006 WL 2422170) (Iowa App.). Because of these inherent ownership rights, the individual value of the units, if sold in the marketplace, would likely be higher than the total value of the units if appraised as a complex and then simply divided by the number of units in the complex. A more reliable approach for ad valorem purposes would be to analyze the sales of individual condominium units in the area, as well as other 499B properties if available, and explain any necessary adjustments for location, size, building design, amenities, etc. While Hartzler ultimately arrived at “per-unit” allocations, the appraisal shows the comparables used in the market approach were analyzed and valued as a whole and then allocated based only on the number of units in the complex.

More important, even if individual unit values were developed, the appraisal data does not show that the property was inequitably assessed compared to other like properties. As explained below, it does not show a disproportionate ratio between the subject and comparables. And there is no evidence in the record to show that a uniform assessing method was applied incorrectly to the subject. For these reasons, the Hartzler appraisal is not strong evidence of the property’s fair market value as of January 1, 2010.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions must first be considered in arriving at market value. *Id.* If sales are not available or market value "cannot be readily established in that manner," other factors may be considered in arriving at market value. *Heritage Cablevision v. Board of Review of City of Mason City*, 457 NW2d 594, 597 (Iowa 1990); § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

The subject property is a typical apartment building but is committed to a horizontal property regime under Iowa Code Chapter 499B. Under that chapter, every unit in the building is technically a separate, alienable piece of property with its own listing and valuation on the county tax rolls. § 499B.10. The fair market values for these properties include the values for the appurtenant share or

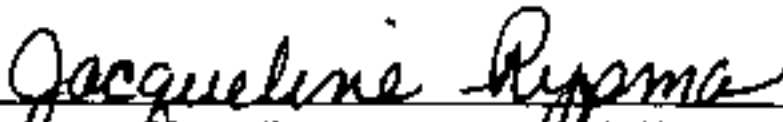
percentage of the land, general common elements, and limited common elements. § 499B.11. It is not proper when assessing 499B property to assign one collective value to the entire complex. *Id.*; *Dinkla*, (2006 WL 2422170) (Iowa App.).

Woodridge's claim before PAAB was that the property was inequitably assessed compared to other like properties in the jurisdiction. To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). There is nothing in the record to show that the subjects are assessed higher proportionately than other like property using the *Maxwell* criteria. A ratio was not developed to show that comparable properties have lower assessments or that Woodridge's assessments are too high. And there is nothing in the record to show the assessor or board of review did not apply an assessing method uniformly to similarly situated or comparable properties as noted in *Eagle Food*.

The appraisal did not show inequity in the assessments under the criteria of *Eagle Food* or under *Maxwell*. The Appeal Board finds Woodridge's claim that the assessments were not equitable as compared with assessments of other like property in the taxing district is not supported by a preponderance of the evidence. Accordingly, we affirm the January 1, 2010, assessed values of the condominium units included in these appeals as determined by the Board of Review.

IT IS ORDERED that the January 1, 2010, assessments as determined by the City of Cedar Rapids Board of Review are affirmed.

Dated this 3 day of June 2011.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Chair


Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-3</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	